

Defendant.

Civil Action No. 98-CV-5591

4. Dr. Stark also explained at trial that, in his judgment as a statistician, the type of calculation that Plaintiffs have now attempted to perform would not be a meaningful measure of

the likelihood that children are exposed to adult material on the World Wide Web. Testimony of Philip B. Stark, Nov. 8, 2006, p. 177, line 13, through p. 178, line 17.

5. As explained in more detail in the accompanying Declaration of Philip B. Stark, the calculations contained in Plaintiffs' demonstrative exhibit are not meaningful estimates, and further suffer from a variety of technical defects.

6. Counsel for the Defendant has contacted counsel for Plaintiffs and has asked that they agree not to use the proffered demonstrative exhibit. After an initial exchange of correspondence via e-mail, counsel for Defendant reiterated his request. Counsel for Plaintiff has not responded to this request.

7. Because the Plaintiffs' proffered demonstrative exhibit does not fairly reflect the trial record, Plaintiffs should be prohibited from its use in their closing argument.

For the foregoing reasons, Defendant respectfully requests that the Court direct the Plaintiffs not to use their demonstrative exhibit captioned "Sexually Explicit Domestic Web Pages Not Blocked by AOL Filter" in their closing argument.

Respectfully submitted,

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Date: November 20, 2006

CERTIFICATE OF SERVICE

I hereby certify that I caused the attached document to be filed via this Court's electronic filing system on November 20, 2006. The electronic filing of this document constituted service of this document on the following liaison counsel:

Aden J. Fine, Esquire
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/s/ Joel McElvain
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